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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/593,647	06/13/2000	LeRoy G. Hagenbuch	204559	7587
<div>7590 05/14/2007</div> <div>Gregory C Bays Leydig Voit & Mayer Ltd Two Prudential Plaza Suite 4900 180 North Stetson Chicago, IL 60601-6780</div> <div>EXAMINER CRAIG, DWIN M</div> <div>ART UNIT PAPER NUMBER 2123</div> <div>MAIL DATE DELIVERY MODE 05/14/2007 PAPER</div>				

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/593,647

Applicant(s)

HAGENBUCH ET AL.

Examiner

Dwin M. Craig

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-10 and 15-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2, 7-10 and 15 is/are allowed.
- 6) ☒ Claim(s) 3-6, 16 and 17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 January 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 2-10 and 15-17 have been presented for reconsideration based on Applicants' amended claim language and arguments.

Response to Arguments

2. Applicants' arguments submitted in the 1/29/2007 responses have been fully considered; the Examiner's response is as follows:

2.1 The Examiner thanks the Applicants' for submitting new drawings and withdraws the objection to the same.

2.2 The Examiner thanks the Applicants' for canceling claims 1 and 11-14 and acknowledges that any objection or rejection of those claims is moot.

2.3 Regarding claims 2, 7-10 and 15 the Examiner has found Applicants' arguments in combination with the instant amendments to the claims to be persuasive and withdraws the earlier rejections of the claims.

2.4 Regarding claims 3-6, 16 and 17 the Examiner has found Applicants' arguments regarding the applied prior art rejections to be persuasive in view of the amended claim language and arguments, the previously applied prior art rejections have been withdrawn.

2.5 Regarding newly amended claims 3-6, 16 and 17, the Examiner notes that the current claim language is disjoint. For example, while expressly claiming, "*modeling a shape of a load of heaped material in three dimensions, where the shape of the load of heaped material is substantially conical*" the following method steps fail to actually use this modeled load of heaped material in any of the proceeding method steps.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 3-6, 16 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps.

See MPEP § 2172.01. The omitted steps are: *producing the body according to the modeled body and values of the predetermined parameters used in combination to generate a dump body design.*

3.1 Claims 3-6, 16 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The current claim language is disjoint, for example, while there is a claimed limitation, “*modeling a shape of a load of heaped material in three dimensions, where the shape of the load of heaped material is substantially conical*” no where in the current claim language is this modeled load of heaped material being used to in the generation of the predetermined parameters that ultimately are used to produce the body as claimed. Therefore, a modeled load of heaped material is being claimed but *nothing is actually being done with this modeled load!*

Regarding the limitation, “*modeling a body of a haulage vehicle to hold the substantially conically shaped load of heaped material where a shape of the body conforms to the shape of the load of heaped material in three dimensions and is determined by predetermined parameters*” is confusing because, it is unclear if the modeled shape of the load material from the previous limitation is being used to make the shape of the dump body or if there is a different shape of

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heaped material that is being used to be used in forming the body. Further and in regards to the limitation, *is determined by predetermined parameters*, this limitation would suggest that the shape of the body is being produced, *only by the predetermined parameters*, it is unclear how the shape of the body is being produced by a combination of the *predetermined parameters* and the *modeling a body of a haulage vehicle*. Therefore the *predetermined parameters* are not part of the *modeled load*.

Finally, the limitation at the end of the claim 3 where the claimed method steps result in *producing the body according to values of the predetermined parameters resulting from the modeling of the body* could be reasonably interpreted to mean that the body produced is based only on the *predetermined parameters* and not on the *conically shaped load of material* and therefore this claimed result is disconnected from the rest of the claimed method steps.

3.2 Dependent claims 4-6, 16 and 17 inherit the defects of independent claim 3.

Allowable Subject Matter

4. Claims 2, 7-10 and 15 are allowed.

4.1 The Examiner has found Applicants' arguments presented on page 7 regarding the Liffman et al. and Baker '889 references failing to be prior art in view of the priority date of June 5, 1999. Therefore, claim 2 is allowable; the following is an Examiner's reason for allowance.

Regarding claim 2, none of the cited prior art taken alone or in combination with the prior art of record disclose, *adjusting a set of design parameters of the body until the load center of gravity for the three-dimensional volumetric model of the load is located proximate the desired location for the load center of gravity on the chassis and the volume of the three dimensional*

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volumetric model approximates the desired volumetric capacity, as specifically disclosed in claim 2 and further **in combination with the remaining elements and features of the claimed invention** as disclosed in claim 2. It is for these reasons that applicants' invention defines over the prior art of record.

4.2 Dependent claims 7-10 and 15 are allowable for at least the reason that they depend from an allowed base claim.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dwain M. Craig whose telephone number is (571) 272-3710. The examiner can normally be reached on 10:00 - 6:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul L. Rodriguez can be reached on (571) 272-3753. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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